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As of: September 9, 2002 (12:07PM)

LC4001

**** Bill No. ****

Introduced By *****

By Request of the *****

UNOFFICIAL DISCUSSION DRAFT ONLY

A Bill for an Act entitled: "An Act providing for a 3-month community commitment unless there has been evidence of a previous involuntary commitment for inpatient treatment in a mental health facility; and amending sections 53-21-127, and 53-21-149, MCA."

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 53-21-127, MCA, is amended to read:

"53-21-127. Posttrial disposition. (1) If, upon trial, it is determined that the respondent is not suffering from a mental disorder or does not require commitment within the meaning of this part, the respondent must be discharged and the petition dismissed.

(2) If it is determined that the respondent is suffering from a mental disorder and requires commitment within the meaning of this part, the court shall hold a posttrial disposition hearing. The disposition hearing must be held within 5 days (including Saturdays, Sundays, and holidays unless the fifth day falls on a Saturday, Sunday, or holiday), during which time the court may order further evaluation and treatment of the respondent.

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(3) At the conclusion of the disposition hearing and pursuant to the provisions in subsection (7), the court shall:

(a) commit the respondent to the state hospital for a period of not more than 3 months; ~~or~~

(b) commit the respondent to a community facility or program or to any appropriate course of treatment, which may include housing or residential requirements or conditions as provided in 53-21-149, for a period of:

(i) not more than 6 3 months; or

(ii) not more than 6 months in order to provide the respondent with a less restrictive commitment in the community rather than a more restrictive placement in the state hospital if a respondent has been previously involuntarily committed for inpatient treatment in a mental health facility and the court determines that the admission of evidence of the previous involuntary commitment is relevant to the criterion of predictability as provided in 53-21-136(1)(d) and outweighs the prejudicial effect of its admission as provided in 53-21-190.

(4) Except as provided in subsection (3)~~(b)~~ (c), a treatment ordered pursuant to this section may not affect the respondent's custody or course of treatment for a period of more than 3 months.

(5) In determining which of the alternatives in subsection (3) to order, the court shall choose the least restrictive alternatives necessary to protect the respondent and the public and to permit effective treatment.

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(6) The court may authorize the chief medical officer of a facility or a physician designated by the court to administer appropriate medication involuntarily if the court finds that involuntary medication is necessary to protect the respondent or the public or to facilitate effective treatment. Medication may not be involuntarily administered to a patient unless the chief medical officer of the facility or a physician designated by the court approves it prior to the beginning of the involuntary administration and unless, if possible, a medication review committee reviews it prior to the beginning of the involuntary administration or, if prior review is not possible, within 5 working days after the beginning of the involuntary administration. The medication review committee must include at least one person who is not an employee of the facility or program. The patient and the patient's attorney or advocate, if the patient has one, must receive adequate written notice of the date, time, and place of the review and must be allowed to appear and give testimony and evidence. The involuntary administration of medication must be again reviewed by the committee 14 days and 90 days after the beginning of the involuntary administration if medication is still being involuntarily administered. The mental disabilities board of visitors and the director of the department of public health and human services must be fully informed of the matter within 5 working days after the beginning of the involuntary administration. The director shall report to the governor on an annual basis.

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(7) Satisfaction of any one of the criteria listed in 53-21-126(1) justifies commitment pursuant to this chapter. However, if the court relies solely upon the criterion provided in 53-21-126(1)(d), the court may require commitment only to a community facility or program or an appropriate course of treatment as provided in subsection (3)(b) or (3)(c), and may not require commitment at the state hospital.

(8) In ordering commitment pursuant to this section, the court shall make the following findings of fact:

(a) a detailed statement of the facts upon which the court found the respondent to be suffering from a mental disorder and requiring commitment;

(b) the alternatives for treatment that were considered;

(c) the alternatives available for treatment of the respondent;

(d) the reason that any treatment alternatives were determined to be unsuitable for the respondent;

(e) the name of the facility, program, or individual to be responsible for the management and supervision of the respondent's treatment;

(f) if the order includes a requirement for inpatient treatment, the reason inpatient treatment was chosen from among other alternatives; and

(g) if the order includes involuntary medication, the reason involuntary medication was chosen from among other alternatives."

{*Internal References to 53-21-127:*

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2-16-503x	25-31-602x	25-31-602x	25-31-602x
25-31-602x	25-31-602x	27-2-401x	27-8-204x
37-3-323x	37-6-311x	37-11-321x	37-12-322x
41-5-1504x	53-21-104x	53-21-121x	53-21-123x
53-21-126x	53-21-128x	53-21-128x	53-21-132x
53-21-140 x	53-21-149 A	53-21-151 x	53-21-152x
53-21-181 x	53-21-195x	53-21-195x	53-21-197x
53-21-197 x	53-21-198 x	53-21-198x	53-21-198x
70-19-413x	70-29-113x	70-29-210x	70-29-328x}

Section 2. Section 53-21-149, MCA, is amended to read:

"53-21-149. Conditions of treatment in community facility, program, or course of treatment. If the court orders a disposition under 53-21-127(3)(b) or (3)(c), the court may order the following conditions for treatment in a community facility or program, or may order a course of treatment, including but not limited to:

(1) following a treatment plan developed pursuant to 53-21-150 that may include case management services, medication, short-term inpatient treatment, chemical dependency treatment, assertive community treatment, or a combination, as set forth by the designated community facility or program or the individual responsible for the management and supervision of the respondent's treatment; or

(2) specific residential or housing requirements that may include being under the care or custody of a relative or guardian."

{Internal References to 53-21-149: None.x}

- END -

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